

Patent- och Registreringsverket
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Malmö
2006-01-23

International patent application No. PCT/SE2004/001626
Applicant: Bone Support AB, et al.

Dear Mr. Brander,

This is in response to the WRITTEN OPINION (PCT Rule 66) dated 2005-11-30.

From said Written Opinion, it can be clearly understood that claims 2-3, 5-11, 16-22, 25-33, 37-43 and 48-50 are describing a new invention with an inventive step.

On the other hand, according to the Written Opinion, claims 1, 4, 12-15, 23-24, 34-36, 44-47 and 51-52 are not considered to be new and do not involve an inventive step. However, according to the following arguments, we are of the opinion that the also the last-mentioned claims describe a new invention and involve an inventive step.

The invention

1) The device according to claim 1 is clearly intended for providing spongy bone with bone substitute and/or bone reinforcing material.

2) According to claim 1, this device includes (besides a perforating and flushing/rinsing device) a vacuum source for generating a vacuum in the hole in the spongy bone for sucking and/or facilitating insertion or feeding of the bone substitute and/or bone reinforcing material into said spongy bone. By generating a vacuum in the hole, the bone substitute and/or bone rein-

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forcing material can be brought to penetrate rough or uneven surfaces in the hole without risking that said bone substitute and/or bone reinforcing material penetrates into the blood paths (note description, page 2, lines 15-24).

The known art according to D1 (US 6 248 110)

In contrast to the invention, D1 is not mentioning that vacuum is generated in a hole in the spongy bone for sucking bone substitute and/or bone reinforcing material into the hole. Thus, in D1, bone substitute and/or bone reinforcing material can not be brought to penetrate rough or uneven surfaces in the hole without risking that the bone substitute and/or bone reinforcing material penetrates into the blood paths.

Instead, the systems/methods according to D1 are directed towards a totally different invention, namely rinsing a hole in the spongy bone for inserting and expanding a balloon in the hole.

The known art according to D2 (EP 1 132 061)

In contrast to the invention, D2 is not mentioning the device according to claim 1 of the invention but instead that a hole in a disc is rinsed, whereafter a flexible bag is inserted in the hole (a vacuum can not be applied in this bag because that would cause the bag to collapse). Therefore, the invention according to claim 1 is new and has an inventive step compared to D2.

Conclusion

The device according to claim 1 of the invention is considered to be new and to have an inventive step. Claims 4, 12-15, 23-24 and 34-36 are dependent to claim 1 and are therefore also describing a new and inventive device.

Claims 44 and 51 describe bone substitute and/or bone reinforcing material which can be applied in a hole in spongy bone in which vacuum is generated and it is also considered

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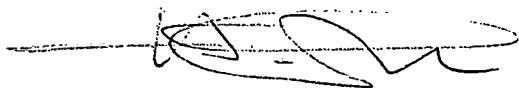
to be new and inventive to apply such material be generating vacuum in the hole. Claims 45-47 and 52 are dependent to claim 44 and 51 respectively and are thus also describing a new and inventive step.

Request

It is respectfully requested that a favourable International Preliminary Report on Patentability is issued also with respect to claims 1, 4, 12-15, 23-24, 34-36, 44-47 and 51-52.

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by:



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